

No. 5:11-CR-357-4-BR
No. 5:16-CV-270-BR

Respondent.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

ORDER

Petitioner's 28 U.S.C. § 2255 motion, (DE # 146), is ALLOWED. The judgment entered 9 May 2012 and petitioner's conviction on Count 2 are VACATED. Count 2 is DISMISSED. The government's motion to dismiss (DE # 166) is DENIED as MOOT. Resentencing on Count 1 is SET for 28 October 2019. The U.S. Probation Office is DIRECTED to file a memorandum setting forth any revisions to the Presentence Report, (DE # 91).

W. Earl Britt

Senior U.S. District Judge